

REMARKS

Claims 1-33 are pending in the application. Claims 19-33 were allowed and claims 1-18 stand rejected. Claim 17 was amended.

Claim Rejections – 35 U.S.C. § 101

The Examiner stated that claim 17 was drawn to non-statutory subject matter and rejected claim 17 under 35 U.S.C. § 101, because it positively recites a part of the human body, i.e. “the glenohumeral joint”. Claim 17 has been amended to overcome this rejection.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected claims 1, 3-5, 7-10, and 16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,989,294 to Marlow. With respect to claim 1, the Examiner stated that Marlow discloses a modular prosthesis for at least a partial replacement of a joint articulating surface of a bone comprising: a head (13); an elongated stem (19); a connecting member (15, 20) comprising a patric member (15) and a locking member (20). The Examiner, thus, stated that Marlow discloses a head by disclosing anti-friction insert including a race portion 13, that Marlow discloses a patric member by disclosing a head 15, and that Marlow discloses a locking member by disclosing a retaining ring 20.

Marlow discloses a ball and socket joint, particularly for use as a prosthetic hip joint. An anti-friction insert including a race portion 13 is positioned between a liner 11 implanted in a joint and a head 15 attached to a femoral stem, which is implanted in a femur. The head 15 is fixedly attached to the femoral stem 19 by a morse taper portion of the femoral stem being received in a morse taper opening 16 in the head 15. The race portion 13 includes bearing balls that permit movement of the head 15 and rotation of the race portion 13 in the insert 11. A retaining ring 20 secures the race portion 13 to the head 13 and permits a rolling friction universal swiveling movement of the head 15 in the race portion 13. Marlow further discusses the rolling

engagement of between the bearing balls of the race portion 13, the head 15 and the liner 11. The retaining ring 20, while securing the head 15 to the race portion 13 does prevent the head 15 from moving relative to the race portion 13.

Therefore, Marlow does not disclose a locking member adapted to lock the head to the stem in a desired orientation or a locking member that retains the patrix member within the socket with a force sufficient to lock the patrix member securely and rigidly in place relative to the stem and head as claimed in claim 1. Thus, Marlow does not disclose or suggest all of the elements of claims 1, 3-5, 7-10, and 16.

Claim Rejections – 35 U.S.C. § 103

The Examiner rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,989,294 to Marlow in view of U.S. Patent No. 6,203,575 to Farey. As discussed above, Marlow does not disclose a locking member adapted to lock the head to the stem in a desired orientation or a locking member that retains the patrix member within the socket with a force sufficient to lock the patrix member securely and rigidly in place relative to the stem and head as claimed in claim 1. Similarly, Farey does not disclose a locking member adapted to lock the head to the stem in a desired orientation or a locking member that retains the patrix member within the socket with a force sufficient to lock the patrix member securely and rigidly in place relative to the stem and head. Thus, Marlow alone or in combination with Farey does not disclose or suggest all of the elements of claim 2.

The Examiner rejected claims 6, 11-13, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,989,294 to Marlow in view of U.S. Patent No. 5,702,457 to Walch et al. As discussed above, Marlow does not disclose a locking member (or ring) adapted to lock the head to the stem in a desired orientation or a locking member (or ring) that retains the patrix member (or ball) within the socket with a force sufficient to lock the patrix member (or ball) securely and rigidly in place relative to the stem and head as claimed in claim 1 and claim 18. Similarly, Walch et al. does not disclose a locking member adapted to lock the head to the stem

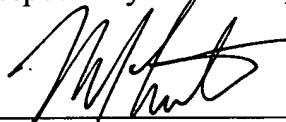
in a desired orientation or a locking member that retains the patrix member within the socket with a force sufficient to lock the patrix member securely and rigidly in place relative to the stem and head. Thus, Marlow alone or in combination with Walch et al. does not disclose or suggest all of the elements of claims 6, 11-13, 17, and 18.

In summary, nothing in Marlow, Farey and/or Walch et al. teaches or suggests a locking member (or ring) adapted to lock the head to the stem in a desired orientation or a locking member (or ring) that retains the patrix member (or ball) within the socket with a force sufficient to lock the patrix member (or ball) securely and rigidly in place relative to the stem and head. Applicants submit in view of the foregoing that claims 1-18 are not anticipated or rendered obvious by Marlow, Farey and/or Walch et al. Applicants accordingly respectfully request that the anticipation rejection and obviousness rejections be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing, Applicants respectfully request that currently pending claims 1-18 be allowed with currently allowed claims 19-33 and a patent issue upon them. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an amendment, please call 404 815 6061.

Respectfully submitted,



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